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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JAN 8 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

)
Amendment of Part 25 of the Commission's)
Rules to Establish Rules and Policies)
Pertaining to the Second Processing Round)
of the Non-Voice, Non-Geostationary)
Mobile Satellite Service)

IB Docket No. 96-220

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COMMENTS ON MOTION FOR DEFERRAL

Final Analysis Communication Services, Inc. ("Final Analysis") and E-SAT, Inc. ("E-SAT") submit these comments on the Motion for Deferral filed on January 6, 1997 by Leo One USA Corporation ("Leo One USA") and CTA Commercial Systems, Inc. ("CTA") in the above captioned proceeding. Leo One USA and CTA have requested that the Commission defer the date for filing amendments to pending second round Non-Voice, Non-Geostationary Mobile Satellite Service ("NVNG MSS") applications until 30 days after the release by the Commission of a Report and Order resolving the issues in this proceeding. Final Analysis and E-SAT fully support the objectives underlying the Motion, but recommend a slightly different approach.

Final Analysis and E-SAT agree that the record so far in this proceeding indicates that it would save significant time and resources of the Commission and the NVNG MSS applicants if the date for filing amendments were deferred until after a band plan for second round NVNG MSS licensees is finally determined. However, it may be premature at this time to establish a specific time table for the filing of amendments.

As the Commission is aware, the second round applicants in this proceeding have been working diligently to achieve industry agreement on various technical and procedural issues concerning frequency assignments and licensing. We believe that significant progress has been made, and that the parties have demonstrated very significant willingness to come together and resolve what are extremely complex technical and business issues. An industry agreement conceivably could obviate the need to wait for release of a Commission order before amendments can be filed, or at least could significantly accelerate the process. Especially in light of the progress that has been made, Final Analysis and E-SAT believe that the Commission should continue to strive for the objective that Leo ONE USA and CTA themselves consistently have promoted, which is the earliest possible resolution of this proceeding.

On the other hand, it is clear that although the parties have made significant progress, a full and complete agreement has not been achieved. To the extent that issues remain open, even after the record in this proceeding is complete and the applicants have fully examined the options, it appears that certain analytical assumptions may require additional clarification. Additionally, there are a number of issues raised by the Notice¹ and the comments filed about the form and substance of amendments to be filed, that also may require further clarification to avoid misunderstanding, duplication and other waste of effort. Thus, Final Analysis and E-SAT believe that, following the closing of the pleading cycle, a further and final working meeting with the Commission's participation could be extremely helpful and

¹ Amendment of Part 25 of the Commission's Rules to Establish Rules and Policies Pertaining to the Second Processing Round of the Non-Voice, Non-Geostationary Mobile Satellite Service, Notice of Proposed Rulemaking, IB Docket No. 96-220, FCC 96-426 (released October 29, 1996) ("Notice").

productive. Final Analysis and E-SAT submit that such a meeting, with full and frank review of the positions of the parties and clarification of technical coordination and sharing constraints required by the Commission may prove to be a critical step in the final, and most efficient, resolution of this proceeding.

Consequently, Final Analysis and E-SAT propose that the Commission defer the January 27, 1997 date and instead schedule a conference, as soon as possible but no later than 30 days following submission of reply comments, with all applicants to: (1) review any industry agreements that have been achieved by that date, (2) review and clarify the basis for any remaining ambiguities and concerns about sharing and other technical criteria as put forth in the Commission's proposals and as addressed in the record, and (3) clarify substantive and procedural issues concerning the amendments including establishing final filing procedures and timetables for filing amendments. Depending upon the outcome of such a meeting, the Commission may decide that it is most prudent and efficient to request that amendments be filed even before a final order formally resolving the proceeding is released. Such a meeting should be planned to take an entire day if necessary, and to include all critical technical and business decision makers. Final Analysis and E-SAT believe the Commission has full authority to conduct such a meeting.²

CONCLUSION


For the reasons discussed above, Final Analysis and E-SAT urge the Commission to grant the Motion for Deferral submitted by Leo ONE USA and CTA to the extent that the January 27, 1997 date for filing amendments is deferred. However, rather than establishing

² See, e.g., Use of Alternative Dispute Resolution Procedures in Commission Proceedings and Proceedings in which the Commission is a Party, 6 FCC Rcd 5669 (1991).

the specific timetable for the filing of amendments requested by Leo ONE and CTA, Final Analysis and E-SAT respectfully request that the Commission instead fix a date, as soon as possible following the completion of the record in this proceeding, for an industry working meeting to address the issues itemized herein, including substantive and procedural issues concerning the filing of amendments.

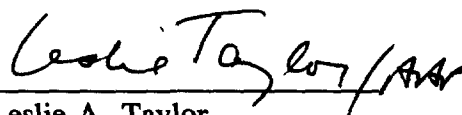
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CERTIFICATE OF SERVICE

I, Wanda Borrero-Turner, a legal secretary at Kelley Drye & Warren LLP, hereby certify that on this 8th day of January 1997, true copies of the foregoing have been sent via first-class U.S. mail, postage prepaid, or hand delivered as indicated to:

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